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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,180	08/01/2003	Julie C. Erinc	4099-4006US1	4897
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MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			EXAMINER HOEY, ALISSA L	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/633,180	Applicant(s) ERINC, JULIE C.	
	Examiner Alissa L. Hoey	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 10-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 10-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to amendment filed 10/19/04. Claims 7-9 have been cancelled and claims 10-12 have been amended. The drawing amendments and specification amendments are acceptable by the examiner. The amendments to claims 10-12 overcome the claim objections from office action 07/15/04. Claims 1-6 and 10-15 have been finally rejected below.

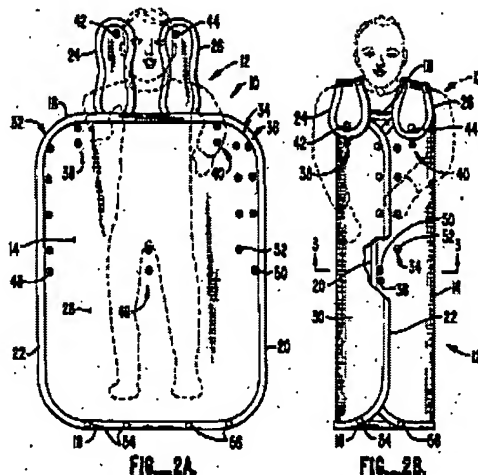
Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 2 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Jeffries (US 4,688,282).



In regard to claims 1 and 2, Jeffries provides a wraparound garment (10) having a rectangular body section with four edges (column 2, lines 9-12). A pair of adjustable

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shoulder straps (24, 26) located on horizontally opposite corners of the length dimension (16). The pair of adjustable shoulder straps (24, 26) support and secured the wraparound garment (10) upon a torso of a wearer (12). The wraparound garment (10) of Jeffries is capable of being placed on a user by inserting an arm into one opening, wrapping the body section completely around the torso, inserting the opposite arm into the second opening and adjusting the shoulder straps.

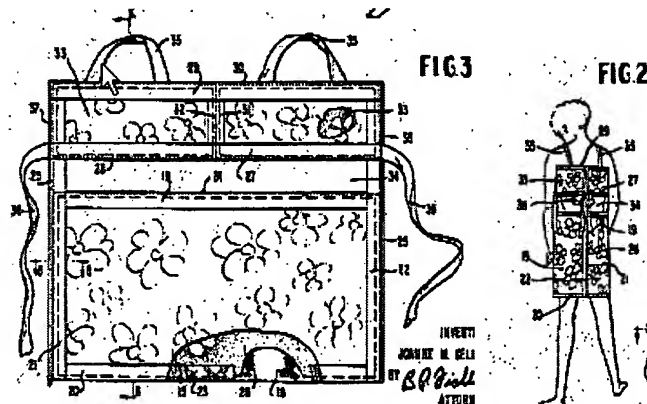
In regard to claim 14, Jeffries provides at least one edge of the rectangular body section having a straight finish (16, 18, 20, 22).

Claim Rejections - 35 USC § 103

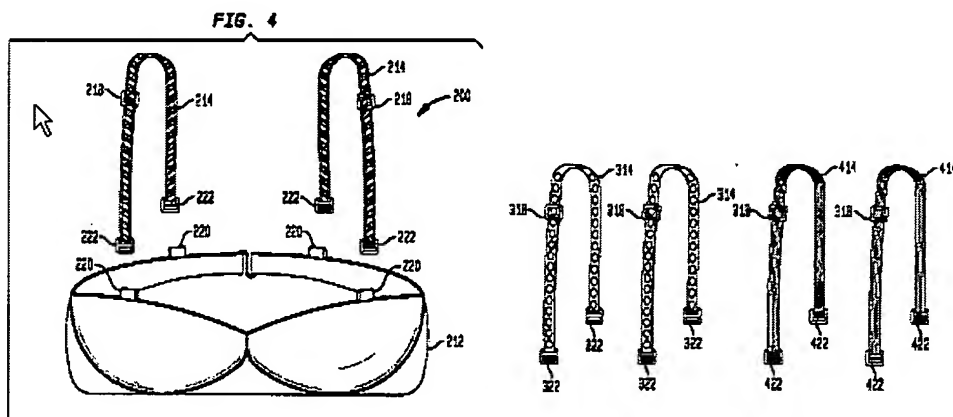
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 3, 4, 6 and 10-14 rejected under 35 U.S.C. 103(a) as being unpatentable over Keller (US 3,582,993) in view of Flaherty (US 6,186,861).



In regard to claims 1, 2, 4 and 6 are Keller provides a wraparound garment (figures 1-3) having a rectangular body section with four edges (23, 25, 30). A pair of shoulder straps (35) located on horizontally opposite corners of the length dimension (30). The pair of shoulder straps (35) support and secure the wraparound garment upon a torso of a wearer (figures 1 and 2). The wraparound garment of Keller is capable of being placed on a user by inserting an arm into one opening (35), wrapping the body section completely around the torso and inserting the opposite arm into the second opening (35). Further, Keller teaches ornamental appliques on the rectangular body section (26, 33). However, Keller fails to teach the shoulder straps being adjustable and having ornamental appliques applied thereto.



Flaherty provides adjustable shoulder straps (314, 414) so that they can be adjusted (318) and interchanged (322, 422) based upon the size of the user and desired end look. Further, Flaherty provides ornamental appliques on the adjustable straps (column 6, lines 6-11). It would have been obvious to have adjustable straps with

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ornamental appliqués of Flaherty in place of the non adjustable straps of Keller, since the dress of Keller with adjustable shoulder straps allow the user to adjust the shoulder straps based upon the size of the wearer for proper fit and comfort and the ornamental appliqués provide desired aesthetic effects. It would have been further obvious that if the straps of Flaherty are adjustable that the user can place the garment on their body and then adjust the straps for appropriate fit.

In regard to claim 3, Keller fails to teach one edge of the rectangular body having fringe.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided one edge of the rectangular body having fringe because Applicant has not disclosed that providing fringe on one edge of the rectangular body provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore would have expected Applicant's invention to perform equally well with one edge of the rectangular body having fringe or not as long as there is at least four edges of the rectangular body. Therefore, it would have been an obvious matter of design choice to modify Keller to obtain the invention as specified in claim 3.

In regard to claims, 10-13, Keller provides a wraparound dress garment. However, Keller fails to teach the size of the rectangular body being fabricated in different lengths based upon the size of the user. Further, Keller fails to teach the dress lengths fabricated in different lengths from mini, above the knee, below the knee and ankle length.

It would have been obvious to have provided the rectangular body being any length and width based upon the size of the user, since most garments produced today are based upon measurements of the user's body. User's that are bigger wear garments that use a greater amount of fabric in length and width to accommodate for their bigger body parts. It would have been further obvious that the lengths of a dress can be determined by the end use and desired look of the dress garment. Dresses having a length of mini, above the knee, below the knee and ankle length are all well known dress lengths and can be chosen as desired to cover more or less of the user's body.

In regard to claim 14, Keller provides at least one edge of the rectangular body section having a straight finish (23, 25 and 30).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

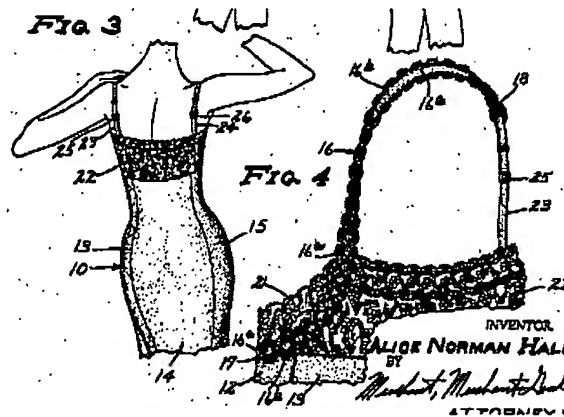
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keller in view of Hall (US 3,304,942).

In regards to claims 1 and 2 Keller provides a wraparound garment (figures 1-3) having a rectangular body section with four edges (23, 25, 30). A pair of shoulder straps (35) located on horizontally opposite corners of the length dimension (30). The pair of shoulder straps (35) support and secure the wraparound garment upon a torso of a

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wearer (figures 1 and 2). The wraparound garment of Keller is capable of being placed on a user by inserting an arm into one opening (35), wrapping the body section completely around the torso and inserting the opposite arm into the second opening (35). However, Keller fails to teach the shoulder straps being adjustable and one edge of the rectangular body section having a scalloped edge.



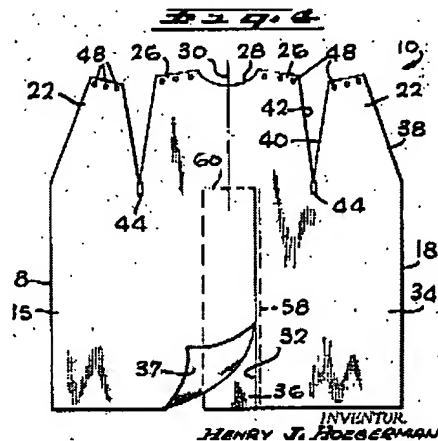
Hall provides shoulder straps (16) on a dress being adjustable (23, 25) and a bottom edge of the garment having a scalloped edge (figures 1 and 2, identifier 11).

It would have been obvious to have provided the adjustable shoulder straps of Hall on the wraparound garment of Keller, since the shoulder straps of Keller being adjustable would provide a garment that can be adjusted for proper fit and comfort to the wearer. The scalloped edge of Hall provided on the bottom edge of Keller would provide a wraparound garment with a decorative bottom adding the aesthetic appeal of the garment. It would have been further obvious that if the straps of Keller are adjustable that the user can place the garment on their body and then adjust the straps for an appropriate fit.

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6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keller and Flaherty as applied to claims 1 and 2 above, and further in view of Hoegerman (US 3,464,063).

Keller and Flaherty fail to teach a slit in the bottom center of the rectangular body section (36, 37).



Hoegerman provides a wraparound garment having a slit in the bottom center of the body section.

It would have been obvious to have provided the wraparound garment of Keller and Flaherty with the back slit of Hoegerman, since the wraparound garment of Keller and Flaherty provided with a back slit would provided a wraparound garment with greater easy access to the user's body underneath especially when using the rest rooms.

Response to Arguments

7. Applicant's arguments filed 11/19/04 have been fully considered but they are not persuasive. Applicant argues that the rejections do not overcome the claims.

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I) Applicant argues that Jeffries does not provide a garment but “*bedding for children*”.

Examiner disagrees since, Jeffries provides an article that is attached to the user by a pair of shoulder straps. A garment is an article of clothing and clothing is something that is capable of being attached to a user to cover one's body. The article of Jeffries is attached to and covers a user's body and therefore is a garment.

II) Applicant argues that the straps of Jeffries “*are not located on horizontally opposite corners of the length dimension of the rectangular blanket*”.

Examiner disagrees since, the straps of Jeffries when attached at both ends to the rectangular sheet are attached at the corners of the length of the rectangular sheet. The claim does not put any limitations as to when or how they are attached and in what phase of wear the straps are located at the corners. The claim only requires “*shoulder straps located on horizontally opposite corners of the length dimension*”. Therefore, Jeffries meets this limitation as illustrated in figure 2B of Jeffries.

III) Applicant argues that Keller fails to teach the “*shoulder straps being located on horizontally opposite corners of the length dimension of the rectangular body section*”.

Examiner disagrees since, Keller provides shoulder straps attached to the rectangular body section on opposite corners, since one end of each of the shoulder straps are located at the corner area of the horizontal length dimension (see figure 2 and 3, identifiers 35 and 29). The claim is very broad and does not limit the corner area or the arrangement connection of both ends of the strap in relation to the corner.

IV) Applicant argues that Keller fails to teach the *"shoulder straps support and secure the wraparound garment upon a torso of a wearer"*.

Examiner disagrees since, the shoulder straps of Keller inherently with the assistance of gravity would secure the garment in place upon the shoulders of the wearer. The addition of the tie fastener does assist in securing the garment in place along with the shoulder straps for a secure closure. There are no limitations in the claims detailing that no other fasteners besides the shoulder strap are used to wrap the garment around a user.

In response to Applicant's argument that Keller includes additional structure not required by Applicant's invention, it must be noted that Keller discloses the invention as claimed. The fact that it discloses additional structure is irrelevant.

V) Applicant argues that Keller fails to teach *"wherein a wearer inserts an arm into one opening, wraps said rectangular body section completely around the torso, inserts the opposite arm into the second opening"*.

Examiner disagrees since, claim 2 is an apparatus claim and Keller meets all of the structural limitations as discussed previously. The garment of Keller is capable of being put on by inserting an arm into one opening, wrapping completely around the torso and then inserting the opposite arm into the second opening. Nothing prevents the garment of Keller from being put on as detailed in claim 2. Therefore Keller meets the limitations as claimed.

For the reasons stated above the Applicant's arguments do not overcome the claim rejections.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bradley, Previdi et al., Yeganian, Keltner, Hughes, Clark, Belcher, Burbidge, Marie, Kenneally, Schneider et al., Vafi and Rothman are all cited to show closely related garment articles.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

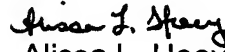
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (703) 308-6094. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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